

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4932 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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CORE HEALTHCARE LTD.

Versus

MK DUBEY OR HIS SUCCESSOR IN OFFICE

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Appearance:

MR SN SOPARKAR for Petitioner

NOTICE SERVED BY DS for Respondent No. 1, 3

MR MIHIR JOSHI for MANISH R BHATT for Respondent No. 2

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE M.C.PATEL

Date of decision: 14/08/98

ORAL JUDGEMENT

Rule. Mr. Joshi for Mr. M.R. Bhatt appears and waives service of Rule on behalf of the respondents. In the facts and circumstances of the case, the matter is taken up for final hearing today.

This petition is filed by the petitioner for quashing and setting aside the action of the respondent-authorities in refusing to grant stay against the recovery of tax and interest for the Assessment Years 1994-95 and 1995-96 and to restrain the respondent-authorities from taking coercive action for effecting recovery of tax and interest for the above periods.

Various arguments were advanced by the learned counsel for the petitioner Mr. Soparkar. In the facts of the case however, we do not express any opinion on merits because we are of the opinion that in view of the fact that the petitioner desires to rely on additional material in support of his prayer for stay, the matter deserves to be remanded to the Commissioner for fresh decision. It will be open to the petitioner to raise all contentions and also to place on record materials which are with the petitioners including the latest development and disposal of identical and/or similar matters. The Commissioner will consider the said materials and will pass appropriate order on its own merits. It is hoped that the Commissioner will decide the question as expeditiously as possible and preferably within one month from the receipt of the writ. In the meantime however, the authorities will not take coercive action. Mr. Soparkar states that so far as the petitioner is concerned, he will make necessary representation within one week from today. Rule made absolute to the above extent with no order as to costs.

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Amp/-